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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Petitioner,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

LORNCE STIGER,

Real Party in Interest.

E052103

(Super.Ct.No. FSB905200)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Ronald M.
Christianson, Judge. Petition granted.

Michael Ramos, District Attorney, Grover D. Merritt and Eric Ferguson, Deputy
District Attorneys, for Petitioner.

No appearance for Respondent.

The Cochran Firm and Richard Barnwell for Real Party in Interest.

In this matter we have reviewed the petition and the opposition filed by real party in interest (defendant). We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

We note that as the People pointed out, the issue of the criminal street gang's *existence* was not in question at the preliminary hearing.

In determining whether the evidence introduced at a preliminary hearing is sufficient to support a holding order, the threshold is relatively low. The only question is whether the evidence supports a "reasonable belief" or "strong suspicion" that the defendant committed the charged offense or that the charged allegation is true. (See, e.g., *People v. Superior Court (Decker)* (2007) 41 Cal.4th 1.)

In finding that this standard was met, we do not need to accept the People's argument that defendant's knowledge that his coparticipants were gang members is irrelevant. The evidence of tattoos sported by other participants supports the conclusion that defendant was aware of their gang affiliation. This, in turn, supports the inference that defendant had the intent to aid the gang or was acting at the direction of its members. (See *People v. Albillar* (2010) 51 Cal.4th 47.) There was also testimony, credible in a commonsense way, that gang members tend to plan crimes with other gang members or affiliates on the basis of loyalty and trust. In sum, this was sufficient to support the gang enhancement allegation pleaded under Penal Code section 186.22, subdivision (b), and the trial court erred in granting defendant's motion to dismiss or strike it.

Accordingly, the petition for writ of mandate is granted.

DISPOSITION

Let a peremptory writ of mandate issue, directing the Superior Court of San Bernardino County to vacate its order granting defendant's motion to dismiss the gang enhancement and to enter a new order denying the motion.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

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McKINSTER
Acting P. J.

We concur:

KING
J.

MILLER
J.